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PTO/SB/21 (6-99)

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/619,754
		Filing Date	July 14, 2003
		First Named Inventor	Hans KOLL et al.
		Group/Art Unit	1651
		Examiner Name	Unassigned
Total Number of Pages in This Submission		Attorney Docket Number	39766-0114A

### ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers <i>(for an Application)</i>	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Group <i>(Appeal Notice, Brief, Reply Brief)</i>
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Version with Markings Showing Changes	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input checked="" type="checkbox"/> Additional Enclosure(s) <i>(please identify below):</i>
<input checked="" type="checkbox"/> Information Disclosure Statement and PTO-1449 (with 5 references cited)	<input type="checkbox"/> Terminal Disclaimer	<b>Certification, Copy of the International Search Report and 3 references submitted with PTO 1449; stamped return postcard</b>
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		
Remarks		

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT 08-1641 FOR ANY FEES DUE IN CONNECTION WITH THIS PAPER (Reference Atty. Docket No. 39766-0114A)

### SIGNATURE OF APPLICANT, ATTORNEY OR AGENT

Firm or Individual name	GINGER R. DREGER, Reg. No. 33,055, HELLER EHRLMAN LLP		
Signature			
Date	October 13, 2005	Customer Number:	25213

### CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated below and addressed to: Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this date: October 13, 2005.

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Typed or printed name	Sandra Puljic		
Signature		Date	October 13, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hans KOLL *et al.* Attorney Docket #: 39766-0114A  
Serial No. 10/619,754 Group Art Unit 1651  
Filing Date July 14, 2003 Examiner: Unassigned  
Title: **METHODS FOR IDENTIFYING TUMORS THAT ARE RESPONSIVE TO TREATMENT WITH ANTI-ErbB2 ANTIBODIES**  
Express Mail Label No.: **EL 976 550 223 US**  
Mailing Date: **October 13, 2005**

**INFORMATION DISCLOSURE STATEMENT**  
**UNDER 37 C.F.R. §1.97**

**MAIL STOP: AMENDMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Listed below or on an attached Form PTO-1449 is information known to applicant(s). A copy is provided of each foreign patent, each publication other than U.S. patents and U.S. patent application publications, and each cited pending unpublished U.S. application along with a concise explanation of information in a foreign language pursuant to 37 C.F.R. §§1.97-1.98. In addition, enclosed is a copy of the International Search Report received in a related matter for the above-identified application which discloses the references submitted herewith.

Applicants respectfully request that the listed information be considered by the Examiner and be made of record in the above-identified application. If form PTO-1449 is enclosed, the Examiner is requested to initial and return it in accordance with MPEP §609.

This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in §1.56.

This statement qualifies under 37 C.F.R. §1.97, subsection (b) because (check all that apply):

- (1) It is being filed within 3 months of the application filing date and is other than a continued prosecution application under § 1.53(d)  
-- OR --
- (2) It is being filed within 3 months of entry of a national stage  
-- OR --
- (3) It is being filed before the mail date of the first Office Action on the merits  
-- OR --
- (4) It is being filed before the mailing of a first Office Action after the filing of a request for continued examination under § 1.114.

37 C.F.R. §1.97(c). If this statement is being filed after the latest of: (1) three months beyond the filing date of a national application; (2) three months beyond the date of entry of the national stage as set forth in §1.491 in an international application; or (3) the mailing date of a first Office action on the merits, but before the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, then:

a certification as specified in §1.97(e) is provided below; **or**

a fee of **\$180.00** as set forth in §1.17(p) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

37 C.F.R. §1.97(d). If this statement is being filed after the mailing date of the earlier of a final office action under §1.113 or a notice of allowance under §1.311, but before payment of the issue fee, then:

A. a certification as specified in §1.97(e) is completed below; and

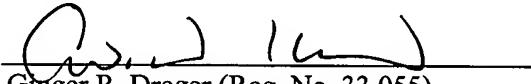
B. a petition under 37 C.F.R. §1.97(d) requesting consideration of this statement is submitted herewith; **and**

C. a fee of \$180.00 as set forth in §1.17(i)(1) is authorized below, enclosed, or included with the payment of other papers filed together with this statement.

*Fee Authorization.* The Commissioner is hereby authorized to charge the above-referenced fees of **\$0.00** and charge any additional fees or credit any overpayment associated with this communication to Deposit Account No. **08-1641 (Attorney's Docket No. 39776-0114A)**.

Respectfully submitted,

Dated: October 13, 2005

By:   
Ginger R. Dreger (Reg. No. 33,055)

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<b>INFORMATION DISCLOSURE STATEMENT</b>  <b>PTO-1449</b>		<b>ATTY. DOCKET NO.:</b> <b>39766-0114A</b>		<b>SERIAL NO.:</b> <b>10/619,754</b>			
		<b>APPLICANT :</b> Hans KOLL et al.					
		<b>FILING DATE:</b> July 14, 2003		<b>GROUP:</b> 1651			
<b>U.S. PATENT DOCUMENTS</b>							
EXAMINER'S INITIALS	PATENT NO.	DATE	NAME	CLASS	SUBCLASS	FILING DATE	
	5,811,098 A	09/22/1998	Plowman <i>et al.</i>	424/178.1	530/387.3		
	6,417,168 B1	07/09/2002	Greene <i>et al.</i>	514/44	514/44		
<b>FOREIGN PATENT DOCUMENTS</b>							
EXAMINER'S INITIALS	PATENT NO.	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	
						YES	NO
						<input type="checkbox"/>	<input type="checkbox"/>
<b>OTHER DOCUMENTS (Including Author, Title, Date, Pertinent Pages, Etc.)</b>							
	Agus <i>et al.</i> , "Targeting ligand-activated ErbB2 signaling inhibits breast and prostate tumor growth", Cancer Cell, Vol. 2, pp 127-137, August 2002.						
	Quian <i>et al.</i> , p185 <sup>c-neu</sup> and epidermal growth factor receptor associate into a structure composed of activated kinases", Proceedings of the National Academy of Sciences USA, Vol. 89, pages 1330-1334, February 1992.						
	Tzahar <i>et al.</i> "The ErbB-2/HER2 oncogenic receptor of adenocarcinomas: from orphanhood to multiple stromal ligands", Biochimica et Biophysica Acta, Vol. 1377, pp M25-M37, 1998.						
EXAMINER		DATE CONSIDERED					

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

## CERTIFICATION

*(Attachment to Information Disclosure Statement)*

- 37 C.F.R. §1.97(e)(1). APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT** each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the statement; or
- 37 C.F.R. §1.97(e)(2). APPLICANT'S UNDERSIGNED ATTORNEY HEREBY CERTIFIES THAT** no item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application or, to the knowledge of the person signing this certification after making reasonable inquiry, was known to any individual designated in §1.56(c) more than three months prior to the filing of this statement.

Respectfully submitted,

Dated: October 13, 2005

By: Ginger R. Dreger  
Ginger R. Dreger (Reg. No. 33,055)